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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,370	10/19/2000	Brent Bilger	BILG-400	8637
26379	7590	10/22/2003	EXAMINER	
GRAY CARY WARE & FREIDENRICH LLP 2000 UNIVERSITY AVENUE E. PALO ALTO, CA 94303-2248			PHAM, THOMAS K	
			ART UNIT	PAPER NUMBER
			2121	
DATE MAILED: 10/22/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/693,370	BILGER, BRENT
Examiner	Art Unit	
Thomas K Pham	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 August 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4, 6-18 and 20-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 11-17 and 23 is/are allowed.

6) Claim(s) 1-4, 6-10, 20-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

***Response to Amendment***

1. This action is in response to request for re-consideration filed on 8/4/2003
2. Claims 1-4, 6-10 and 20-22 have been considered but they are not persuasive.
3. Claims 1 and 2 stand rejected under 35 U.S.C. 102(b) as being anticipated by Myron et al. U.S. Patent no. 5,640,143.
4. Claims 3-4, 6-10, 18 and 20-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Humphries U.S. Patent No. 5,621,662 in view of Myron et al. U.S. Patent No. 5,640,143.
5. Claims 11-17 and 23 are allowed.

***Response to Arguments***

In the remark the applicant argues that cited reference fails to disclose:

- I) "a device for measuring ambient room temperature, wherein the sensitivity is adjusted in response to the measured ambient room temperature" as to claims 1, 3, 18.
- II) "a controller for controlling the controlled objects in response to detected occupancy by the plurality of room motion sensors; wherein at least one of the room motion sensors includes a sensor for detecting motion in one of the rooms, the sensor having a sensitivity to the motion for triggering the room occupancy sensor, and wherein the sensitivity is adjustable in response to signals from the controller" as to claim 6.
- III) "adjusting the sensitivity of a motion detecting sensor in response to other sensors" as to claims 20-22.

In response to applicant's argument,

I) It was noted that prior art (Myron et al. U.S. Patent no. 5,640,143) teaches (column 2 lines 25-27, "the detection of environmental conditions within the space, for example, ambient light and temperature.") and (column 13 lines 41-43, "Automatic sensitivity adjustment is useful primarily in environments in which one can make certain assumptions about occupancy pattern of the controlled space; otherwise the sensor cannot distinguish when it should reduce or increase the sensitivity"). Therefore, it is clear that there is a device to measure the ambient temperature to detect the environmental conditions in order to adjust the sensitivity of the sensor. Thus, examiner believes that because the ambient temperature is measured to detect the environmental conditions within a room and the auto adjustment of the sensor's sensitivity is based primarily on the environment conditions, then, the automatic sensitivity adjustment was made in response to the measured ambient temperature of the room. Therefore, limitation is met by the reference.

II) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Refer to the rejection of claim 6 on the last office action, the examiner included a motivation to ("combine the motion sensor of Myron with the home automation system of Humphries because it would provide for adjusting the sensitivity of the sensor in order to send the most accurate information back to the main controller of the system."). Therefore, it is clear that the combination of references have overcome the claim limitation.

III) Prior art (Myron et al. U.S. Patent no. 5,640,143) also teaches (column 2 lines 25-27, "the detection of environmental conditions within the space, for example, ambient light and temperature.") and (column 13 lines 41-43, "Automatic sensitivity adjustment is useful primarily in environments in which one can make certain assumptions about occupancy pattern of the controlled space; otherwise the sensor cannot distinguish when it should reduce or increase the sensitivity"). Therefore, as to point (I) above, the sensitivity adjustment was made based on the detection of environmental conditions such as ambient temperature and/or light. Thus, examiner believes that the detection of ambient temperature or light must conduct by at least a temperature and/or light sensor. Therefore, limitations are met by reference.

***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (703) 305-7587 and fax number is (703) 746-8874. The examiner can normally be reached on Monday-Thursday and every other Friday from 7:30AM- 5:00PM EST or contact Supervisor, *Mr. Anil Khatri*, can be reached on (703) 305-0282.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

**Thomas Pham**  
*Patent Examiner*

TP  
October 7, 2003

*Wilbert L. Starks, Jr.*  
*Primary Examiner*  
*Art Unit - 2121*